

DRMS-P  
November 30, 2004

DRMS CONTRACTING INSTRUCTION

This publication has been revised significantly  
and must be reviewed in its entirety.

A. REFERENCES. This instruction supplements and implements the following publications and must be read with these publications.

1. Federal Acquisition Regulation, Title 48.
2. Department of Defense (DoD) Federal Acquisition Regulation Supplement.
3. DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1).
4. DRMS Directive 4105.1, DRMS Contracting Directive, February 12, 2001(hereby superseded).

B. PURPOSE. This instruction:

1. Supersedes reference A4.
2. Supersedes DRMS-P Procurement Letters up to and including Procurement Letter 2004-02.

C. APPLICABILITY AND SCOPE. This instruction is applicable to all contracting elements within DRMS.

D. DEFINITIONS. (Reserved for future use.)

E. POLICY. The DRMS Commander issues the procedures established by this instruction by the authority of the Executive Director, Contracting, Headquarters (HQ) DLA. The procedures are included at Enclosure 1, and follows the numbering system of the Federal Acquisition Regulations System.

F. RESPONSIBILITY. All procurement officials are responsible for carrying out the procedures outlined in Enclosure 1.

G. EFFECTIVE DATE AND IMPLEMENTATION. This instruction is effective and shall be implemented upon signature by the DRMS Executive Assistant.

DRMS-I 4105.5

DRMS-P

H. INFORMATION REQUIREMENTS. (Reserved for future use.)

BY ORDER OF THE COMMANDER

/s/  
JANINE DES VOIGNES  
Executive Assistant

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PART 1

FEDERAL ACQUISITION REGULATIONS SYSTEM

SUBPART 1.1 - PURPOSE, AUTHORITY, ISSUANCE

1.101 Purpose.

This instruction is issued by the Commander, Defense Reutilization and Marketing Service, by the authority of the Executive Director, Contracting, Headquarters (HQ), DLA. It implements and supplements the Federal Acquisition Regulation (FAR), the DoD FAR Supplement (DFARS), and the Defense Logistics Agency Acquisition Directive (DLAD). This instruction is not a stand-alone document and must be read in conjunction with the FAR, DFARS, and DLAD. Supplementation of this instruction is prohibited.

1.104 Applicability.

(a) This instruction is applicable to all contracting elements within DRMS.

SUBPART 1.3 - AGENCY ACQUISITION REGULATIONS

1.301-90 Contracting office guidance.

DRMS-POP is the contracting element responsible for forwarding copies of applicable procedural instructions to HQ, DLA/J-3311 (Acquisition Policy Branch) for review after publication.

1.301-91 Contracting office clauses.

(a) Applicable clauses shall be provided to DRMS-POP for assignment of the requisite numbers to local clauses.

(b) Applicable clauses and provision shall be forwarded to DRMS-POP upon incorporation in a contract. DRMS-POP shall forward clauses and provisions to HQ, DLA/J-3311 subsequent to review.

SUBPART 1.4 - DEVIATIONS FROM THE FAR OR DFARS

1.490 Submission of requests for deviations.

(a) Requests for authority to deviate from the provisions of the FAR or the DFARS shall be submitted to J-3311 via DRMS-POP.

SUBPART 1.6 - CONTRACTING AUTHORITY AND RESPONSIBILITIES

1.601 General.

The Chief of Contracting, DRMS-P, is the Chief of the Contracting Office for all DRMS contracting elements. DRMS-POP is responsible for and will maintain and report information regarding all delegations of authority.

1.602 Contracting officers.

1.602-1 Authority.

(a) DRMS-POP shall prepare and maintain a current listing of all DRMS contracting officers and the limits of their authority. This listing shall be submitted to J-3313 at the beginning of each fiscal year.

1.602-2 Responsibilities.

(90) Contracting officers are responsible for effective contracting. Contracting officers shall request and consider the advice of specialists in audits, law, engineering, transportation, and other fields, as appropriate. Non-concurrences should be resolved at the lowest level possible. Failure to resolve substantive issues will be elevated within DRMS-P management chain-of-command. Contracting officers are responsible for notifying the chairman of the review board if a contract action must be completed with significant unresolved non-concurrences in the file.

1.602-3 Ratification of unauthorized commitments.

(b) Policy.

(3) All ratification actions at or below the simplified acquisition threshold shall be forwarded to the DRMS Commander for approval in accordance with DRMS-P standard operating procedure PO-03-02. Ratification's resulting from actions of personnel from the Defense Logistics Information Service (DLIS) shall be coordinated with DLIS-D, and forwarded to DRMS-D after review and comment by the Office of Counsel.

(i) Funds shall be committed prior to obtaining the Commander's approval to ratify.

(4) Actions exceeding the simplified acquisition threshold must be approved by the Head of the Contracting Activity (HCA), J-3311, Headquarters, DLA. Such actions must be forwarded by the DRMS Commander, after concurrence by the Office of Counsel.

1.603 Selection, appointment, and termination of appointment.

1.603-2 Selection.

(90)(a)(4) SAMPLE CONTRACTING OFFICER WARRANT PROGRAM SELECTION STATEMENT.

The format at DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 1.603-2 (90)(a)(4), shall be used by potential appointees. The candidate's supervisor shall review the statement for accuracy and completeness prior to forwarding to DRMS-POP.

## 1.603-3 Appointment.

(a) The supervisor shall prepare a request using the format outlined in DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 1.603-3(a)(1) for requests. This request shall be submitted to DRMS-POP with the potential appointee's statement for review. DRMS-POP may elect to have the package jointly reviewed by the Contracting Officer Review Board (CORB). If the DRMS-POP Chief or the CORB'S recommendation is to submit the candidate's name for a warrant, DRMS-POP shall prepare the Standard Form (SF) 1402, Certificate of Appointment and an accompanying memorandum to forward to the commander.

(b) All nominations for appointment of DRMS contracting officers shall be submitted to DRMS-D by the Chief of the Contracting Office.

## 1.603-92 Contracting Officer Review Program.

(a) The CORB shall perform an annual review and assessment of the organizational need for contracting officer appointments. DRMS-POP shall maintain copies of all pertinent data.

(2)(ii)(A) The CORB shall 1) Review and approve initial contracting officer appointment procedures on an as-needed basis and 2) The CORB shall conduct reviews once every 3 years and prepare written documentation of the results by the tenth working day after completing the review. The board recorder shall prepare a written summary immediately after the CORB meeting for approval and signature by the board chairman. CORB members must have previously held a warrant in order to serve on the board.

- (b) CORB members:
1. DRMS-P, Chairman
  2. DRMS-P, Division Chiefs
  3. Recorder



1.603-93 Selection, appointment, evaluation, and termination of appointment of contracting officer's representatives and contracting officer's technical representatives.

(a) Designation and training.

1. Only individuals who have received the appropriate training shall be appointed as Contracting Officer Representatives (CORs) and Contracting Officer Technical Representatives (COTRs) by the contracting officer. The appointing Contracting Officer may grant waivers to these training requirements on a case by case basis.

2. The training and duties for Hazardous Waste contract CORs are outlined in Subpart 90 of this document. Within 10 days of the initial delegation, a certified statement regarding completion of the required training must be provided to the CO from the COR/COTR's supervisor for inclusion to the COR file.

3. COR/COTR training records shall be retained by the COR/COTR's supervisor. The COR supervisor is responsible for providing a copies of those records at contract closure to be incorporated into the contract file. This requirement will be included in the delegation letter and a copy will be provided to the COR/COTR supervisor.

(b) Evaluation and documentation.

1. The appointing contracting officer shall conduct reviews of the CORs. The DRMS Form 1900, Annual Contracting Officer's Representative Review and Evaluation, shall be utilized and provided to the COR/COTR's supervisor within 10 days of completion.

1.690 Contract Clearance and Oversight Process

1.690-2 Policy

(c)(1) Specific voting member appointments for the board of review are:

- Chairperson: Chief of Contracting DRMS-P
- Alternate Chairperson: Chief, DRMS-POP
- All DRMS-P Division Chiefs
- All DRMS-P Branch Chiefs
- Cognizant program office representative

*Ad hoc, non-voting board members are as follows:*

- Case initiator
- DRMS Small Business Specialist(CONUS actions only)
- Office of Counsel representative

(2) General Procedures & Responsibilities.

a. The decision of the board will be reached by majority vote. However, as the focal point for oversight within DRMS, the Chief of the Contracting Office has the authority to overrule the decision of the board.

b. The case initiator shall distribute board packages via e-mail no less than 1 working day prior to the board meeting. *Exceptions may be made in emergency situations with the prior written approval of one of the contracting officer's supervisors.*

c. In the event the Chairperson and Alternate Chairperson are absent, another DRMS-P Division Chief or Branch Chief will chair the meeting. In no instance will the Source Selection Authority chair the meeting.

(3) DRMS-P review requirements.

a. Pre-award contract actions.

1. Proposed solicitations exceeding the simplified acquisition threshold shall be reviewed by the CRB prior to issuance. The Chief of the Contracting Office shall approve exceptions in writing.

2. Proposed contract awards exceeding the simplified acquisition threshold shall be reviewed by the board prior to award. Orders issued under indefinite delivery-type contracts and GSA Federal Supply Service contracts where price is the sole evaluation factor are excluded from this requirement.

3. Contract modifications in excess of the simplified acquisition threshold shall be reviewed. Pre-priced, previously evaluated options are excluded from this requirement.

4. A unique action less than the simplified acquisition threshold when determined by the contracting officer or one of his supervisors. Illustrative examples include: actions which resulted in a sole offer, proposed advisory and assistance service solicitations, any action conducted under less than full and open competitive procedures, or a solicitation anticipating award of a contract other than firm fixed price.

5. All claims shall be reviewed by the CRB prior to issuance of a final decision. All claims, regardless of dollar value, shall be presented to the contract review board (CRB) **no less than 10 working days prior to the final decision** deadline.

6. All proposed terminations for default.

7. Proposed termination for convenience actions in excess of the simplified acquisition threshold. Termination for convenience actions initiated on orders issued under an indefinite delivery type contracts for the sole purpose of correcting Government pre-award administrative errors are specifically excluded from this requirement.

8. All termination settlements in excess of the simplified acquisition threshold.

9. All negotiated out-of-court settlement agreements arising under or relating to a contract.

10. All requests for equitable adjustment (REA) greater than \$25,000 shall be reviewed by the Board before execution of a modification or decision letter. Board review of requests for equitable adjustment of less than or equal to \$25,000 shall be at the discretion of the division chief. All REAs valued at \$25,000 or more, shall be presented to the contract review board (CRB) **no less than 10 working days prior** to the final decision deadline.

11. All requests for proposed suspension or debarment.

12. Demand letters in excess of \$25,000.

13. All acquisitions conducted using "phased competition" described in DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 15.101-90. Such acquisitions shall be reviewed at the review levels required for the dollar value for the entire acquisition, not just the specific phase in process.

(4) The case initiator shall compile a package for review consisting of the following documents:

- Pre-negotiation Briefing Memorandum (less attachments)
- Price Negotiation Memorandum
- Source Selection Decision Documents
- Award Document
- Pre-award legal review

(5) Board Recorder Responsibilities. The board recorder is responsible for the following actions:

- a. Recording the attendance of Board members.
- b. Preparation of board of review minutes. The contracting officer shall initial and Chairperson shall sign the minutes of each review board. Minutes shall include the following minimum information:
  - i. Solicitation number, contract number, delivery order or task order number.
  - ii. Date of meeting.
  - iii. Names and organizational codes of all participants.
  - iv. A complete, accurate and concise summary of all the comments made for the record by board participants.
- c. Prompt distribution of the minutes of the Board meeting to the case initiator.
- d. Maintenance and retention of a Board case register containing a fully executed copy of the contract review board minutes.

(6) DRMS-POP will randomly review selected actions below the simplified acquisition threshold on an annual basis to ensure regulatory and procedural operation compliance. DRMS-POP's findings will be forwarded to the Chief of the Contracting Office.

#### 1.691 Legal Review.

(c) Contracting officers shall ensure legal reviews are accomplished on all solicitations and contractual actions in accordance with the thresholds stated in the Defense Logistics Acquisition Directive (DLAD) 5025.30 DLA Acquisition Directive May 04 (formerly 4105.1), Subpart 1.691 (\$100,000 for DRMS). Contracting officers, at their option, may request legal review on actions under these thresholds.

(1) Other actions requiring review by the DRMS Office of Counsel.

a. All justifications for other than full and open competition requiring certification by the DRMS Commander.

b. All disputes, appeals, and final decisions.

c. Requests for equitable adjustments greater than or equal to \$25,000.

d. Mistakes in proposal.

e. Claims.

f. Notice of assignments.

g. Recommendations for ratification of unauthorized commitments.

h. Bonds and consent of surety.

i. Novation agreements or change of name agreements.

j. Insurance certificates.

k. Protests.

l. Late proposals.

m. Terminations for default.

o. Terminations for convenience of the Government for actions exceeding the dollar threshold in DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 1.691. This excludes a termination for convenience action under a delivery or task order issued against an Indefinite Delivery Type Contract (IDTC) when such termination is taken as a result of Government administrative error (e.g., a line item is deleted from a hazardous waste disposal task order due to misidentification or missing waste).

p. Modifications to delivery/task orders over the simplified acquisition dollar threshold. This excludes modifications issued as a result of a request from a contracting officer's representative (COR) to correct contract line item numbers (CLINs), or effect weight adjustment on hazardous waste disposal task orders.

q. Clauses, other than Standard Clauses, which are to be contained in a solicitation.

PART 3

IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF  
INTEREST

SUBPART 3.104-4 - DISCLOSURE, PROTECTION, AND MARKING OF  
CONTRACTOR BID OR PROPOSAL INFORMATION AND SOURCE SELECTION  
INFORMATION

(a) If you are assigned as a project manager, program manager, a member of a technical evaluation committee or an acquisition team member, you may have access to procurement sensitive information and may be required to sign a non-disclosure agreement. In order to maintain the integrity of the procurement, it is important that such information be shared only with those that have a need to know. Supervisors and Managers do not have an inherent right to know and should not put an employee in a position contrary to their nondisclosure agreement. By adhering to the following basic rules, you help ensure the procurement will not be compromised.

(i) If the purchase request has been forwarded to Contracting for action, then refer all requests for information or status to Contracting. This includes requests made by your supervisor(s) or upper management.

(ii) Do not reveal either the number or the identity of offerors.

(iii) Do not discuss specifics of the acquisition with anyone not on the acquisition team. This includes supervisors or managers. Discuss specifics only with those members of the acquisition team that have a need to know the specific the information being discussed.

(iv) If a technical proposal/operations plan was used in the evaluation of a contractor's proposal for award of a contract, after contract award the Contracting Officer shall provide the Contracting Officer's Representative with a copy of the plan. All Government personnel that are given access to contractors' technical proposals or operations plans, that HAVE NOT been incorporated into a contract, must be given guidance on the applicable constraints relative to the release of the potentially business sensitive information.



SUBPART 3.8 - LIMITATION ON THE PAYMENT OF FUNDS TO  
INFLUENCE FEDERAL TRANSACTIONS

3.804 Policy.

(b) DRMS-POP shall submit all OMB Standard Form (SF) LLL Disclosure of Lobbying Activities or negative reports to J-3311 no later than April 20 and October 20 each year. All contracting elements shall submit their reports to DRMS-POP no later than April 5 and October 5 each year.

PART 4

ADMINISTRATIVE MATTERS

SUBPART 4.6 - CONTRACT REPORTING

4.670 Defense Contract Action Data System (DCADS).

4.670-3 Contracting office responsibilities.

(a)(2)(iv) The contract file must contain a copy of the original DD Form 350 signed by the contracting officer, the printout from the initial DCARS entry and the follow up DCARS verification showing zero errors.

(b)(2)(i) DRMS-PHO & POB shall submit their data within 7 working days after the end of each month to DRMS-POP.

PART 6

COMPETITION REQUIREMENTS

SUBPART 6.3 - OTHER THAN FULL AND OPEN COMPETITION

6.302-2 Unusual and compelling urgency

(c) Limitations.

(1) Where justifications are not completed and approved prior to award, the justification shall be completed no later than 10 business days after award of the contract action.

6.303 Justifications.

6.303-1 Requirements.

(b) The requisite technical program office approval level for justifications required by FAR 6.303-1(b) are as follows:

(1) Less than or equal to \$500,000 - Division Chief.

(2) \$500,000.01 - \$10 million - Director of the DRMS Headquarters program office.

(3) Greater than \$10 million - DRMS Commander, or his designee.

SUBPART 6.5 - COMPETITION ADVOCATES

6.502 Duties and Responsibilities.

A position within DRMS-POP shall be formally designated as the DRMS competition advocate in accordance with DoD Directive 5000.1, The Defense Acquisition System and Federal Acquisition Regulation (FAR) Subpart 6.502.

## PART 7

## ACQUISITION PLANNING

## SUBPART 7.1 - ACQUISITION PLANS

## 7.102 Policy.

(90)(a) Plans for complex acquisitions shall be prepared incorporating all the applicable information from the FAR, DFARS, and DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subparts 7.105 and 90.1101. However, as a minimum, the subject areas identified in the Advance Acquisition Planning Template (see 90.1103) shall be considered and addressed in the acquisition plan when applicable. Solicitations and contracts must clearly state whether or not the technical proposal and/or operations plan will be incorporated into the contract or be utilized solely for evaluation purposes. The Contracting Officer shall address the final determination regarding the incorporation of contractor technical proposal and/or operations plans in the Acquisition Plan. All DRMS acquisition plans will contain step-by-step milestones.

(b) When using the DRMS Acquisition Plan Form and best value award evaluation procedures, the Acquisition Plan must also include an Individual Acquisition Plan Supplement. The past performance adjectival ratings and the technical evaluation plan shall be attached to the acquisition plan.

(93) Contracting officers shall ensure completed acquisition plans simultaneously accompany justifications for other than full and open competition when such documents are required to be forwarded to the DRMS Competition Advocate.

## 7.104-91 Advance Acquisition Planning Template.

7.104-91(a) AAPT (formerly known as APEC) review is required for DRMS acquisitions with an estimated value at or above \$5M, which includes base and option periods. The Integrated Acquisition Review Board (IARB) process noted at 7.104-90 does not apply until the estimated dollar value of the acquisition reaches \$20M - \$50M, including base and option periods. AAPT is NOT required for those meeting the IARB criteria.

PART 8

REQUIRED SOURCES OF SUPPLIES AND SERVICES

SUBPART 8.7 - Acquisition from Nonprofit Agencies Employing  
People Who Are Blind or Severely Disabled

8.702 General.

Pursuant to DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 8.702(91), the Chief of the Contracting Office has given blanket approval for the omission of JWOD participation in hazardous/non-hazardous disposal contract source selections where the resultant contract is expected to exceed \$500,000.

PART 9

CONTRACTOR QUALIFICATIONS

SUBPART 9.1 - RESPONSIBLE PROSPECTIVE CONTRACTORS

9.103 Policy.

(b) The written determination of responsibility for contract actions exceeding the simplified acquisition threshold must be signed by the contracting officer and retained in the official contract file.

9.106-2 Requests for preaward surveys.

(90)(e) Contracting officers shall ensure that copies of the preaward survey are filed as follows:

1. Offeror file.
2. Official contract file.
3. A copy of all requested and completed preaward surveys will be maintained in a centralized file located within each division.

SUBPART 9.4 - DEBARMENT, SUSPENSION, AND INELIGIBILITY

9.404 Parties excluded from procurement programs.

(c)(90) The contract specialist shall review the most recent GSA List of Parties Excluded from Procurement and Non-Procurement Programs listing. This real-time document can be viewed at the following Internet website: <http://epls.arnet.gov>. Include the date of the review in the responsibility determination.

PART 12

ACQUISITION OF COMMERCIAL ITEMS

SUBPART 12.3 - SPECIAL REQUIREMENTS FOR THE ACQUISITION OF  
COMMERCIAL ITEMS

12.301 Solicitation provisions and contract clauses for  
the acquisition of commercial items.

(e)(90) Contracting personnel who include locally  
developed clauses and provisions in requests for quotation  
(RFQ) or requests for proposal (RFP) shall comply with  
1.301-91 of this Directive.

(91) DRMS-POP shall review, coordinate and make  
recommended changes to FAR 52.212-1 or FAR 52.212-4 in the  
consolidated database.

PART 15

CONTRACTING BY NEGOTIATION

SUBPART 15.2 - SOLICITATION AND RECEIPT OF PROPOSALS AND  
QUOTATIONS

15.207 Handling proposals and information.

15.207(b)

i. It is the contracting officer's responsibility to provide the following guidance to all personnel, such as acquisition team members, evaluation committee members, program managers, project managers, etc., who will have access to procurement sensitive information. This guidance shall be provided prior to any such personnel being given access to procurement sensitive information.

ii. Information relative to a solicitation, as a common practice, shall not be printed in hard copy at an alternate worksite. If procurement sensitive documentation, such as best value determinations, is printed in hard copy, materials shall be secured so as not to compromise the data. Under no circumstance should hard copy (paper) proposal documents or solicitation/contract or delivery order files be transported between the official duty station and an alternate worksite. This is required to lower the risk of potential loss. Proposal documents, as well as source selection documentation, may be stored in a password protected electronic format for transport.

SUBPART 15.4 - CONTRACT PRICING

15.406-1 Prenegotiation objectives.

(b)(91). The prenegotiation briefing memorandum shall be prepared for the approval of the Chief of the Contracting Office within 3 working days after the prenegotiation briefing.



SUBPART 15.5 PREAWARD, AWARD, AND POSTAWARD NOTIFICATIONS,  
PROTESTS, AND MISTAKES

15.506 Post-award debriefing of offerors.

(c) The contracting officer or branch chief will chair any debriefing session held. Individuals who conducted the evaluations shall provide support.

SUBPART 15.6 UNSOLICITED PROPOSALS

15.602 Policy.

DRMS personnel shall follow the instructions provided in DRMS-I 4105.1, "Unsolicited Proposals."

PART 16

TYPES OF CONTRACTS

16.505 Ordering

The DRMS Competition Advocate shall act as the activity task and delivery order ombudsman pursuant to FAR 16.505(b)(5). The ombudsman shall attempt to resolve contractor complaints relative to the placement individual task and delivery orders at the local level.

PART 19

SMALL BUSINESS PROGRAMS

SUBPART 19.2 - POLICIES

19.201 General Policy.

(b)(90) The DRMS Small Business Specialist (SBS) shall be appointed by the resident Commander in accordance with DLAD 9100.1. DLA Small Business Programs. The SBS is responsible for the programs and reports required by DLAI 9100.1, DLA Office of Small and Disadvantaged Business Programs.

SUBPART 19.5 - SET ASIDES FOR SMALL BUSINESS

19.501 General.

(c) The contracting officer shall ensure a properly executed DD Form 2579, Small Business Coordination Record, is filed in the solicitation file prior to synopsis of any contract action. For any action greater than \$100,000, the Contracting Officer shall ensure DD Form 2579 is approved by the Small Business Specialist. Actions not set aside for small business over \$10,000 require coordination with the Small Business Specialist before taking any contracting action.

SUBPART 19.90 - DLA MENTORING BUSINESS AGREEMENTS (MBA) PROGRAM

19.9003 Scope

Decisions not to include the MBA program in non-commercial item (See DLAD 19.9003) contracts exceeding \$500,000 per year shall be reviewed by the Small Business Specialist prior to forwarding to the Chief of the Contracting Office for approval. Approval authority may not be delegated.

19.9004 Contracting Officer Responsibilities and Program Considerations.

(a) If a contract is awarded to a firm who included a MBA program in their proposal, a copy of the contract and the offeror's proposed program shall be provided to the Small Business Specialist.

19.9006 Reporting

(a) The contracting officer shall include a requirement in the solicitation and contract requiring semi-annual reporting.

(b) Personnel becoming aware of an impending agreement shall notify the Small Business Specialist to allow notification to DLA.

(c) The Small Business Specialist is responsible for coordinating the review and reporting required by DLAD 19.9006(c)& 19.9006(e).

PART 24

PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 24.2 - FREEDOM OF INFORMATION ACT

24.203 Policy.

(a) Requests from the public for information under the Freedom of Information Act (FOIA) must be submitted in writing to the FOIA Officer, Defense Logistics Information Service, 74 N. Washington Avenue, Suite 7, Battle Creek, MI 49017-3084. FOIA requests may also be submitted using the hyperlink available at <http://www.drms.com> or via e-mail to <http://www.dlis.dla.mil/foi.asp>.

(b) DRMS-POP is responsible for processing FOIA requests pertaining to DRMS procurement contracting.

(c) In processing FOIA requests, DRMS-POP shall obtain the information necessary from the appropriate contracting element. All requested information shall be provided to DRMS-POP within the time specified in the request.

PART 32

CONTRACT FINANCING

SUBPART 32.7 -CONTRACT FUNDING

32.703 Contract financing payments.

32.703-2 Contracts conditioned upon the availability of funds.

(a) Prior to beginning any action for procurement of services/supplies OTHER THAN for operation and maintenance and continuing services (*e.g.*, rentals, utilities, and supply items not financed by stock funds) which are necessary for normal operations and for which Congress previously had consistently appropriated funds, the contracting officer shall forward to the Chief of the Contracting Office the required information for submittal to HQ DLA, ATTN: J-3311.

(c) Contractor officers are responsible to advise their customers that supplies and/or services provided under a contract conditioned upon the availability of funds shall not "accept" the service/supply until the contracting officer has given the contractor notice, to be confirmed in writing, that funds are available.

PART 33

PROTESTS, DISPUTES, AND APPEALS

SUBPART 33.1 - PROTESTS

33.103 Protests

33.103(c) Alternative Agency Protest Procedures

(1) If a protest is filed, the following procedures shall be followed:

(a) A copy of the protest shall be provided to DRMS-POP, Office of Counsel and the Chief of the Contracting Office (CCO).

(iii) A memorandum for the record, signed by the contracting officer, expressing the reasons for the actions taken and the contracting officer's recommendation on how to respond to the agency protest.

(c) Responses to the protest shall be reviewed by the Office of Counsel and coordinated and approved by the Chief of the Contracting Office.

(iv) After review of the protest and the proposed response by the Office of Counsel, decide in accordance with DLAD 33.103(C) whether the Chief of the Contracting Office or the Executive Director of DRMS will be the decision maker on the agency protest.

(v) If the Chief of the Contracting Office is the decision maker, sign the agency protest decision document.

(vi) If the Executive Director of DRMS is the decision maker, forward the file for approval and signature.

(d) Once the agency protest decision document is signed, the contracting officer is responsible for proper distribution, including, but not limited to, the protester and DRMS-POP. A signed copy of the final decision on the protest shall be provided to DRMS-POP.

33.103(c)(91) DRMS-POP is responsible for collecting information concerning protests to the contracting officer and Agency level protests for all of DRMS-P.

33.104 Protests to GAO.

(a) General Procedures.

A copy of the protest and the GAO decision document shall be provided to DRMS-POP.

#### SUBPART 33.2 - DISPUTES AND APPEALS

33.211 Contracting Officer Decision

(b) The contracting officer shall determine, subject to the approval of the division chief, the timing and manner of informing customers of their potential financial responsibility related to such REAs and claims.

(d) Contract dispute files, which require CRB review, shall contain, at a minimum, the following information:

(1) A memorandum for the record (MFR) that clearly delineates the facts of the dispute and the basis for the contracting officer's final decision. This MFR shall contain a summary of each element of the dispute and the rationale supporting the contracting officer's recommendation on each element.

(2) The contractor's dispute and certification, if applicable.

(3) Copies of the delivery/task order(s), purchase order, contract, or modifications, as appropriate.

(4) Copies of counsel's review and the program office recommendations.

(5) Copies of the response received from the generator or user regarding the dispute.

(6) Any other applicable documentation (waste profile sheets, laboratory analysis, etc.).



33.212 Contracting officer's duties upon appeal.

When a notice of appeal is received, a copy shall be forwarded to DRMS-POP and the Office of Counsel. The contracting officer is responsible for retention of the original files until the appeal is resolved. The attorney assigned to handle the appeal shall be the focal point for all communications and correspondence pertaining to the case. The contracting officer is responsible for providing data, documentation information, and other support to the Office of Counsel for use on an appeal.

33.214 Alternate disputes resolution (ADR)

In accordance with DLAD 5145.1, The decision not to use ADR shall be made by an official at least one level above the contracting officer -- consultation with legal counsel is mandatory.

PART 37

SERVICE CONTRACTING

SUBPART 37.1 - SERVICE CONTRACTS - GENERAL

37.107 Service Contract Act of 1965.

Each file for services over \$2500 shall contain the Department of Labor (DoL) wage determination or the DoL statement that no wage determination exists. If the Service Contract Act does not apply to the services being acquired, the contracting officer shall document the file accordingly.

DRMS-I 4105.5

DRMS-P

PART 39

ACQUISITION OF INFORMATION RESOURCES

39.7407-2 Communication Services Authorizations (CSAs).

DRMS-PO is the contracting element responsible for signing CSAs.

PART 42

CONTRACT ADMINISTRATION

SUBPART 42.2 - ASSIGNMENT OF CONTRACT ADMINISTRATION

42.202 Assignment of contract administration.

Contract administration for contracts acquiring base supplies or services, A-76 commercial activities, or enterprise management initiatives shall be performed by DRMS-PO. Exceptions may be made on a case-by-case basis.

42.204 Supporting contract administration.

(a)(90) DRMS contracts or modifications containing a small business subcontracting plan shall be delegated to DCMA for administration of the subcontracting plan. Contracting officers are responsible for ensuring subcontracting plans for offerors retained within the competitive range are acceptable prior to the time of requesting final proposal revisions.

SUBPART 42.3 - CONTRACT ADMINISTRATION FUNCTIONS

42.302 Contract administration functions.

(a)(65) Accomplish administrative close out procedures.

(i) All boxes containing files for transmittal to the Federal Records Center shall be full and contain only one contract. Exceptions to the full box rule will be granted only for those files that completely close out a single contract.

(ii) All delivery order/task order files shall contain a signed and dated DD Form 1594, Contract Completion Statement. Ensure all excess funds are deobligated via contract modification prior to executing DD Form 1594. The date on this form shall be the date of the latest dated document in the file.

SUBPART 42.5 Postaward Orientation

42.503-2 Post Award Orientation Conference (POAC)- If a technical proposal/operations plan was used in the evaluation for contract award, the Contracting Officer or Contract Specialist will provide instruction on how to use these plans in monitoring the contractor's performance.

PART 46

QUALITY ASSURANCE

SUBPART 46.1 - GENERAL

46.101 Definitions.

In DRMS a major nonconformance is defined as a nonconformance which adversely affects any of the following: health; safety; performance; interchangeability; reliability; maintainability; effective use or operation; weight; appearance (when appearance is a factor), or any other basic objective of the specification. A minor nonconformance does not adversely affect any of the factors listed above under the definition of major non-conformance.

46.401

(a) The contracting officer shall review the proposed contract quality assurance requirements to ensure the adequacy and completeness prior to inclusion in solicitations and contract awards.

SUBPART 46.5 - ACCEPTANCE

46.502 Responsibility for acceptance.

The contracting officer is responsible for acceptance of services. The contracting officer may delegate this responsibility to qualified Government employees. Each document shall clearly indicate the types and corresponding quantities of services being accepted. Copies of the acceptance document shall be forwarded to both the contractor and the payment office.

For items of supply received at the Hart Dole Inouye Federal Center, the point of contact listed in the purchase order shall perform inspection and acceptance for the Government. The Hart Dole Inouye Federal Center facilities contractor is responsible for data inputting into the Base Operating Support System (BOSS) items of supply received, inspected and accepted by the Government.

SUBPART 46.7 - WARRANTIES

46.709 Warranties of commercial items.

For items of supply where an entity offers its standard commercial warranty, request a copy of the commercial warranty be provided with the offeror's response to the request for quotation. Incorporate the commercial warranty into any resulting purchase order either as an attachment to the purchase order or by reference in the Schedule. File the standard commercial warranty in the purchase order file and ensure a copy is provided to the customer.

PART 49

TERMINATION OF CONTRACTS

SUBPART 49.1 - GENERAL PRINCIPLES

49.101 Authorities and responsibilities.

(a)(1) The contracting officer shall forward a summary of events and submit a recommendation for termination through the branch chief to the division chief. Documentation supporting the recommendation will be presented to the Contract Review Board (CRB) for review prior to taking any formal termination action. Terminations for convenience of purchase orders, delivery orders or task orders under the simplified acquisition threshold are specifically excluded from CRB review, except as otherwise provided elsewhere in this instruction.

(2) Copies of the following documentation must be provided to the CRB, as applicable:

(i) Cure Notices or Show Cause Notices and the contractor's response thereto, as well as the contracting officer's determination regarding the contractor's response.

(ii) Pertinent delivery orders or task orders, modifications, and tracking documentation.

(iii) Any other pertinent background documentation.

SUBPART 49.4 - TERMINATION FOR DEFAULT

49.402 Termination of fixed-price contracts for default.

49.402-6 Repurchase against contractor's account

(90) DLAD Clause 52.249-9000, Administrative Costs of Reprocurement After Default will be included in all solicitations and contracts over the simplified acquisition threshold. The sum of \$500 will be included for administrative costs. Use of the clause is optional for actions under the simplified acquisition threshold.



PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 52.2 - TEXTS OF PROVISIONS AND CLAUSES

52.200 Scope of Subpart

The full text of current DRMS solicitation provisions and contract clauses can be found at the following Internet address <http://www.drms.dla.mil/newproc/html/clauses.html>.

PART 90

SUPPLEMENTAL PROCEDURES

SUBPART 90.2 - TRAINING

90.201 Training of contracting personnel.

(a) DRMS-POP is the focal point for all DoD mandatory acquisition training.

(b) All requests for training to be reimbursed or paid by the Government shall be forwarded to DRMS-POP for review and funding prior to approval.

SUBPART 90.5 - CONTRACT REVIEW REQUIREMENTS

90.501 Checklists.

The DRMS Form 1806, Contract Review Checklist, shall be used to review all newly awarded contracts in excess of the simplified acquisition threshold. Execution of DRMS Form 1806 shall be accomplished within 3 working days after contract award. Place a copy of the completed DRMS Form 1806 in the official contract file.

SUBPART 90.6 - GUIDANCE FOR CONTRACTING OFFICER'S REPRESENTATIVES (CORs) AND CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVES (COTRs)

90.601 General.

Supervisors have the authority to rate an employee's performance, including duties as representative of a contracting officer. To facilitate proper monitoring of employee performance, contracting officers shall make available to the cognizant supervisor copies of the activity file for each COR, by the first day of the month in which performance appraisals are due, and the first day of the month in which midyear performance appraisals are due. For each rating period, noteworthy accomplishments or problems will be duly noted in the COR activity file.

## 90.602-3 Designation of the COR/COTR.

(a) Outlined below is the training required for CORs and COTRs. Hazardous waste disposal service CORs must successfully complete all training prior to appointment, with the exception of the RCRA course. Training waivers will be considered on a case-by-case basis and shall contain sufficient justification. The cognizant DRMS-P division chief has the authority to grant these waivers except where regulatory requirements prohibit further action without appropriate training, coordination with the Environmental Program Office is recommended. CORs duties delegated will be limited to those specifically related to training successfully completed.

1. Safety and Health for Handlers of HM/HW (applies only to hazardous disposal CORs).
2. Resource Conservation and Recovery Act (RCRA) Facility Compliance (must be completed within 6 months of appointment in accordance with 40 CFR 215-16)(applies only to hazardous disposal CORs).
3. Transportation of Hazardous Material/Hazardous Waste for the Department of Defense (applies only to hazardous disposal CORs).
4. Contracting Officer Representative Course (All CORs and COTRs).

(b) In order to continue eligibility as a COR under hazardous waste disposal service contracts, CORs are required to complete the RCRA and Occupational Safety and Health Act (OSHA) refresher training annually. CORs shall update their skills by successfully completing the refresher COR and DOT courses at least once every 2 years. Initial OSHA and RCRA training are provided in the courses listed above.

(d) A copy of the appointment letter shall be provided under separate cover to the COR and COTR's supervisor to include language regarding supervisory responsibility for notification when a COR/COTR is vacating their position in accordance with DLAD 90.602-3.

## 90.602-4 Responsibilities of the COR.

(c) Specific responsibilities will be outlined in the COR appointment letter. COR training shall be commensurate with the level of duties. Full COR duties are specified below. Partial COR duties may include some of the duties listed below and will be determined on a case-by-case basis. When a contractor technical proposal/operations plan is provided, it is critical to understand whether the plan has been incorporated into the contract or not. Proposals/Operation plan that HAVE NOT been incorporated into the contract must be protected from release to other than the COR performing the oversight. The COR/COTR appointment letter will include a statement indicating whether a proposal/plan is attached and the confirmation letter for receipt of the appointment will contain a confirmation that the material is not to be released. Any questions as to the status of contractor technical proposal/operations plan will be referred to the Contracting Officer. The following is a list of duties for hazardous waste disposal service CORs.

COR DUTIES AND REQUIRED HAZARDOUS WASTE (HW) TRAINING FOR  
HW COR APPOINTMENTHW COR DUTIES

1. Read and understand DoDD 5500.7, Standards of Conduct.
2. Maintain an official COR file in accordance with DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 90.603-2.
3. Take care when placing calls to the contractor. You must:
  - a. Make a written record of the conversation.
  - b. Record the date, the contractor representative name, and telephone number.
  - c. Clearly state to the contractor representative that the purpose of the call is to gather or provide information. Make it clear that only the contracting officer can commit the Government to changes in the pick up schedule or any part of the contract.

4. Report delinquent performance to the contracting officer on the first day of the delinquency.

5. Read and maintain a copy of the contract together with contract modifications that may be issued. Become thoroughly familiar with the terms and conditions. When the technical proposal and/or operations plan is NOT incorporated into the contract, the COR is not authorized to release or divulge any such information without prior written approval from the Contracting Officer. Documentation provided which are not incorporated will be marked as such. Any questions as to the use of the contractor technical proposal/operations plan in performing quality assurance functions under the contract will be referred to the Contracting Officer.

6. Assure that changes in work under the contract are not implemented without written authorization or contract modification from the contracting officer.

7. Report any instances of suspected conflict of interest, fraud, waste, and abuse to the contracting officer.

8. Keep the contracting officer informed of your communications with the contractor in order to prevent possible misunderstandings or situations that could become a basis for future claims against the Government.

9. Formally notify the contracting officer of needed changes in the scope of the work in the contract.

10. Notify the installation emergency spill control team when work is scheduled to begin under the contract. If there is no emergency spill control team, notify the Contracting Officer, to confirm that the contractor has the proper equipment and personnel available to deal with any spill.

11. In the event of a spill, notify the installation safety and spill team officials followed by the contracting officer, then HQ DRMS per DRMSI 6050.1 and DRMSI 3020.1. Clean up of any spill is the responsibility of the contractor. If, however, any Government assistance must be rendered, itemize all Government personnel and equipment used.

12. Report apparent violations of the contract to the contracting officer. Do not unduly interfere with or delay the proper operations of the contractor.

13. Determine, in conjunction with the contracting officer, the level of surveillance necessary to safeguard the Government's interest throughout the period of pick up and until all property on the contract task order has been properly removed. The following areas should be reviewed in determining whether to perform less than 100% surveillance of a hazardous waste disposal contractor that is performing on Government facilities:

a. Should surveillance be conducted on-site or for off-site locations?

b. Would the generator be willing to monitor/conduct surveillance of the contractor's performance?

c. What is the generator's skill level, including regulatory and contractual knowledge, ability to review applicable documentation for accuracy, ability to process paperwork, etc.

d. Complexity of the contract; i.e., number and variety of management services requirements, number and variety of containers and waste involved, etc.

e. What specific coordination requirements are necessary for the COR?

f. Experience level of the contractor.

g. Training requirements.

14. Allow the contractor to begin work only when he has available the necessary equipment, including personal protective equipment, when required and personnel for loading. The contractor will furnish all equipment and personnel to load. If you believe there to be an exception, contact the contracting officer for a determination. In addition, the contractor must be equipped to deal with spills during pick-ups and while transporting (absorbent material, pumps, tie-downs, etc.).

15. Monitor the contractor's performance during performance to the extent necessary to assure compliance with all technical requirements of the contract. If a technical proposal/operations plan is provided by the Contracting Officer or incorporated into the contract, read and understand these plans and their proper use in monitoring contractor performance.

16. Advise the contractor to submit requests for changes in writing to the contracting officer.

17. Formally notify the contracting officer if performance is not proceeding satisfactorily or if problems are anticipated. Recommend remedial action alternatives to the contracting officer.

18. Review the pick up report for accuracy after the contractor completes it. Be sure to carefully check the following entries:

a. The name and EPA ID number of each transporter. A real-time list of approved transporters is found on the DRMS Homepage of the Internet. If there are any deviations from the contract, do not release the material. Notify the contracting officer.

b. The name, address, and EPA ID number of each designated disposal facility. A real-time list of approved disposal facilities are found on the DRMS Homepage of the Internet. If there are any deviations from the contract, do not release the material. Notify the contracting officer.

c. The quantity of each CLIN picked up (column 13). If the actual quantity exceeds the quantity stated on the delivery order, do not release the material. Notify the contracting officer.

19. Ensure there is an adequate work area available to the contractor to prepare the property for shipment. This may include re-containerization, draining, sealing, etc.

20. In the presence of the contractor, inspect and verify all work areas, vehicles, equipment, etc., are free of spills, leaks, or debris before work begins.

21. Ensure all property specified in the contract and task order for removal is properly identified and is accessible.

22. Submit a completed Collection Summary Report, DRMS Form 1729, and pick up report within 72 hours of any pick up, complete or partial.

a. Report all unacceptable services. If the work is deemed unsatisfactory, report the deficiencies to the contracting officer on the collection summary report. The contracting officer will determine what further action is required.

b. Report all acceptable services. Provide written notification to the contracting officer when the contractual requirements have been fulfilled and the services are acceptable. The evaluation of the contractor performance shall be documented on the Collection Summary Report.

23. Provide technical interpretation of the contract requirements. It is imperative the COR have a thorough understanding of the requirements of the contract. It may become necessary to provide technical interpretation to the contractor for some portion of the work. Any technical assistance given to the contractor should be documented in the contract file. For significant matters, the information shall be provided to the contractor in writing. You must notify the contracting officer immediately if the contractor disagrees with, or refuses to comply with any technical aspects of the contract as interpreted by the COR. The contracting officer shall provide final resolution in cases of disagreement.



SUBPART 90.9 - UPDATING SMALL DISADVANTAGED BUSINESS STATUS  
AND WOMEN-OWNED BUSINESS STATUS IN THE DD FORM 350 DCARS  
CAGE FILE.

90.901 Reporting requirement.

If applicable, when corrections are necessary, procurement technicians shall prepare the corrective reports in the format outlined in DLA Acquisition Directive (DLAD) 5025.30, May 7, 2004 (formerly 4105.1), Subpart 90.902. The completed report shall be signed by the contracting officer and the DRMS Small Business Specialist prior to release.